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# United States Department of the Interior

## BUREAU OF LAND MANAGEMENT

Utah State Office  
P.O. Box 45155  
Salt Lake City, UT 84145-0155  
<http://www.blm.gov>



JAN 07 2010

IN REPLY REFER TO:

3485

UTU-74804

(UT-923)

**RECEIVED**

**JAN 11 2010**

**DIV. OF OIL, GAS & MINING**

CERTIFIED MAIL—Return Receipt Requested

### DECISION

Hidden Splendor Resources, Inc.

3266 South 125 West

Price, Utah 84501

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Coal Lease

UTU-74804

### Royalty Rate Reduction Application for Coal Lease UTU-74804 Rejected

On December 5, 2006, Hidden Splendor Resources, Inc. filed for a royalty rate reduction (RRR) on coal mined from Federal lease UTU-74804, which is a portion of the Horizon Mine. Hidden Splendor Resources, Inc. requested a reduction from the normal underground rate of 8 percent to a rate of 2 percent.

Pursuant to the Bureau of Land Management (BLM) Manual Section 3485.23C10(c)13 Lease Account Status. "The Minerals Management Service (MMS) shall also review and report on the rent and royalty payment status to the BLM State Director for all applications received. No application shall be approved unless the rent and royalty payments are current."

By a letter dated August 31, 2009 the Minerals Management Service submitted, to the BLM, a copy of the Installment Agreement reached with Hidden Splendor Resources, Inc. for payment of past due royalties and associated late payment interest on Federal Coal Lease UTU-74804 which related back to delinquent payments as of August 20, 2007. On December 22, 2009 the MMS submitted to BLM a copy of a letter dated December 14, 2009 sent to Mr. George R. Jarkesy, Jr. of John Thomas Capital Management Group, LLC stating that "MMS has determined that Hidden Splendor Resources, Inc. is in default of the Installment Agreement as the November and December 2009 payments have not been submitted to MMS." This has been followed up by an E-Mail dated January 4, 2010 from Lee-Ann Martin, Supervisor, Financial Team, MMS, stating that the account status is not in good standing.

Since a determination has been made that the lease account is no longer in good standing; attempts to rectify account matters by fulfilling an Installment Agreement are in default; and that this royalty rate reduction application cannot be approved unless payments would be current; your royalty rate reduction application is hereby rejected. This does not preclude Hidden Splendor resources from refiling a request for a royalty rate reduction if lease account matters can be rectified.

This decision may be appealed to the Interior Board of Land Appeals, Office of the Secretary, in accordance with the regulations contained in 43 CFR, Part 4, and the enclosed Form 1842.1. If an appeal is taken, your notice of appeal must be filed in this office (at the above address) within 30 days from receipt of this decision. The appellant has the burden of showing that the decision appealed from is in error.

If you wish to file a petition (pursuant to regulation 43 CFR 4.21)(58 FR 4939, January 19, 1993) (request) for a stay (suspension) of the effectiveness of this decision during the time that your appeal is being reviewed by the Board, the petition for a stay must accompany your notice of appeal. A petition for a stay is required to show sufficient justification based on the standards listed below. Copies of the notice of appeal and petition for a stay **must** also be submitted to each party named in this decision and to the Interior Board of Land Appeals and to the appropriate Office of the Solicitor (see 43 CFR 4.413) at the same time the original documents are filed in this office. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

Standards for Obtaining a Stay

Except as otherwise provided by law or other pertinent regulation, a petition for a stay of a decision pending appeal shall show sufficient justification based on the following standards.

- (1) The relative harm to the parties if the stay is granted or denied,
- (2) The likelihood of the appellant's success on the merits,
- (3) The likelihood of immediate and irreparable harm if the stay is not granted, and
- (4) Whether the public interest favors granting the stay.

/s/ Roger L. Bankert

Roger L. Bankert  
Chief, Branch of Minerals

Enclosures

1. Form 1842-1 (1 p)

cc: Dana Dean, UDOGM, Box 145801, Salt Lake City, Utah 84114-5801  
Price Coal Office  
MMS, MRM, Solid Minerals Staff, Attn: Patrick Mulcahy, MS390B2, Box 25165,  
Denver, CO 80225-0165